

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

~~01 OCT 1975~~

3 NOV 1975

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

Enclosed is a proposed report to Chairman Eastland, Senate Judiciary Committee, in response to a request for our recommendations on S. 797, S. 798, and S. 799, bills to amend the Administrative Procedure Act; and on S. 800, a bill to amend sections 702 and 703 of Title 5 and section 1331 of Title 28 of the United States Code with respect to procedure for judicial review of administrative agency action.

Advice is requested as to whether there is any objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SIGNED

George L. Cary
Legislative Counsel

Enclosure

Distribution:

Orig - Addressee, w/encl
✓ - OLC Subject, w/encl
✓ - OLC OMB Liaison, w/encl
1 - OLC Chrono, w/o encl
OLC: WPB: sk (31 Oct 75)



MORI/CDF pp1-3

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Honorable James O. Eastland, Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for our comments on S. 797, S. 798, and S. 799, bills to amend the Administrative Procedure Act; and on S. 800, a bill to amend sections 702 and 703 of Title 5 and section 1331 of Title 28 of the United States Code with respect to procedure for judicial review of administrative agency action.

The Administrative Procedure Act establishes the principles and requirements which, in general and to varying degrees, govern administrative procedures of Federal agencies as they affect private rights or public interests through adjudications or certain rulemaking. The Central Intelligence Agency is not such an administrative authority. It was established by the National Security Act of 1947 to coordinate the intelligence activities of the United States; to correlate, evaluate and disseminate foreign intelligence; and to perform other functions and duties related to intelligence and affecting the national security.

The amendments to the Administrative Procedure Act proposed in S. 797, S. 798, and S. 799 are consequently of little or no significance to the Central Intelligence Agency. Therefore, with respect to these three bills, we defer to the views of those agencies more directly affected.

S. 800 would abolish the defense of sovereign immunity with respect to actions in Federal courts seeking relief other than money damages and stating a claim against an agency officer acting in an official capacity. It would also permit a plaintiff in judicial review proceedings to name as defendant the United States, the agency, or the appropriate officer and would liberalize venue requirements for such actions. Finally, the bill would



eliminate the requirement that there be at least \$10,000 in controversy for Federal question jurisdiction under 28 U.S.C. 1331. On these matters, we defer to the position of the Department of Justice.

The Office of Management and Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. E. Colby
Director

Page Denied